

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WACLAW SOBCZAK, ET ANO., ETC.

Plaintiffs,

- against -

AWL INDUSTRIES, INC., ET AL.,

Defendants.
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ORDER

CV-07-1226 (BMC)(RER)

This matter is before the Court on defendant's motion for an interim stay until the Court decides its motion to stay pending a possible appeal.

Although defendant asserts that the Court could eliminate any prejudice to absent plaintiffs by tolling the statute of limitations that might otherwise arise to bar claims, defendant points out no provision that permits such tolling, and the Court knows of no provision that would permit it to override statutory limitations periods. However, the Court may condition a stay requested by a party upon that party's acceptance of reasonable conditions for the relief it seeks. Assuming for purposes of this Order only that the statute of limitations is an affirmative defense that defendant may waive, a brief stay will be deemed in effect, pending plaintiff's response to defendant's interim motion, provided that defendant files a letter stipulating that it will not assert the statute of limitations defense against any plaintiff, whether presently a party or later joining this action, or claim that would otherwise become barred until its motion for a stay is decided, and that this period of time (starting today and ending upon decision of the motion to stay) will be excluded in determining whether any present or future plaintiff's claim is time-barred. (Since

defendant is addressing this issue now, it might as well make the same stipulation in connection with the stay that it seeks pending appeal, if it is so inclined).

SO ORDERED.

s/Brian M. Cogan

U.S.D.J.

Dated: Brooklyn, New York
November 5, 2007